

PT 01-10

Tax Type: Property Tax

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**LA LECHE LEAGUE
INTERNATIONAL, INC,
APPLICANT**

v.

**DEPARTMENT OF REVENUE
STATE OF ILLINOIS**

**99-PT-0049
(98-16-0934)**

**Real Estate Exemption
for 1998 Tax Year**

P.I.N: 07-12-300-033

Cook County Parcel

**Alan I. Marcus
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

APPEARANCES: Mr. Michael P. Mosher and Ms. Kathryn M. Vanden Berk of Mosher & Associates on behalf of the La Leche League International, Incorporated.

SYNOPSIS: These proceedings raise the following issues: (1) whether LaLeche League International, Incorporated (hereinafter the "LLLI" or the "applicant") qualifies as an "institution of public charity" within the meaning of Section 15-65 of the Property Tax Code, 35 ILCS 200/1-1, *et seq.* (hereinafter the "Code"); (2) whether applicant owned real estate identified by Cook County Parcel Index Number 07-12-300-033 (hereinafter the "subject property") during the 1998 assessment year; and, (3) whether the subject

property was "actually and exclusively used for charitable or beneficent purposes, as required by Section 15-65 of the Code, during the 1998 assessment year.

The controversy arises as follows:

Applicant filed a Real Estate Exemption Complaint with the Cook County Board of Review (hereinafter the "Board") on January 24, 1997. (Dept. Ex. No. 1). The Board reviewed applicant's complaint and thereafter recommended to the Illinois Department of Revenue (hereinafter the "Department") that the requested exemption be granted. (Dept. Ex. No. 2). The Department subsequently rejected this determination by issuing a determination finding that the subject property was not in exempt ownership and not in exempt use. (Dept. Ex. No. 3). Applicant filed a timely appeal to this denial and later presented evidence at a formal evidentiary hearing. Following submission of all evidence and a careful review of the record, I recommend that the Department's determination be reversed.

FINDINGS OF FACT:

A. Preliminary Considerations

1. The Department's jurisdiction over this matter and its position therein are established by the admission of Dept. Ex. Nos. 1, 2 and 3.
2. The Department's position in this matter is that the subject property is not in exempt ownership and not in exempt use. Dept. Ex. No. 3.
3. The subject property is located at 1400 N. Meacham, Schaumburg, IL 60173 and improved a 13,185 square foot office facility. Dept. Ex. No. 2.
4. The building is divided into two wings, east and west, that are separated by a large area that contains a loading dock, a vestibule, restrooms and a

lunchroom/kitchen. The west wing contains, *inter alia*, office space for various persons in applicant's employ, an education center, a print shop, a computer and storage space. The east wing contains, *inter alia*, additional office space, a utility room, a large conference room, a reading room, and an area from which applicant operates a toll-free telephone information service. Applicant Ex. Nos. 60, 61.

5. LLLI acquired ownership of the subject property via a trustee's deed dated October 17, 1996. Applicant Ex. No. 57.
6. Applicant used the subject property as the main base for all of its international operations throughout the 1998 assessment year. Tr. pp. 83-84, 249-263.

B. Applicant's Organizational And Financial Structure

7. Applicant was originally incorporated under the "General Not For Profit Corporation Act of Illinois" on September 3, 1958. Its Articles of Incorporation have been subject to numerous amendments, the most recent of which was dated August 20, 1984. Applicant Ex. Nos. 1, 2, 3, 4.
8. This amendment provides, *inter alia*, that applicant's specific corporate purposes are to: (1) help mothers learn to breastfeed their babies; (2) encourage good mothering through breastfeeding thereby stimulating the optimal physical and emotional growth of the child and the development of close family relationships; (3) promote a better understanding of the values of breastfeeding, parenting, childbirth and related subjects; and (4) offer discussion meetings and conduct lectures for the purposes stated above and on related subjects for such educational purposes. Applicant Ex. No. 4.

9. LLLI's bylaws specifically state, *inter alia*, that: (1) its general corporate policy is to waive or reduce any fees or charges associated with the services or products that LLLI provides in accordance with each recipient's ability to pay therefor; and, (2) applicant's organizational staff shall have the necessary discretion to make such waivers or reductions when appropriate so as to ensure the maximum distribution of its products and services. Applicant Ex. No. 4; Tr. p. 85-86, 130.
10. The Internal Revenue Service has recognized that LLLI is exempt from federal income tax because it qualifies as an organization described in Section 501(c)(3) of the Internal Revenue Code. Applicant Ex. No. 6.
11. The Department found that applicant qualified for an exemption from the application of Use and related Illinois sales taxes, pursuant to Section 3-5(4) of the Illinois Use Tax Act (35 ILCS 105/1 *et seq*, 105/3-5(4)), via a Recommendation for Disposition in Departmental Docket Number 92-ST-0017, approved by the Director on December 12, 1994. Administrative Notice; Applicant Ex. No. 7.
12. Applicant has no capital stock or shareholders. Its fiscal year runs from April 1 through March 31 of each calendar year. Applicant Ex. Nos. 5, 21, 22; Tr. p. 9.

13. An audited financial statement discloses that applicant obtained revenue from the following sources, and incurred the following expenses, during its 1998 fiscal year:

SOURCE	AMOUNT	% OF TOTAL¹
Operating Revenues		
Proceeds from Sales of Books, etc.	\$1,647,606.00	42%
Membership Dues	\$ 390,219.00	10%
Royalty Income	\$ 140,313.00	4%
Workshop & Seminar Fees	\$ 107,309.00	3%
Conference Income	\$ 647,277.00	16%
Advertising Income	\$ 140,210.00	4%
Special Projects Income	\$ 133,138.00	3%
Investment Interest & Dividends	\$ 14,250.00	<1%
Unrealized Gain on Investment	\$ 3,699.00	<1%
Miscellaneous	\$ 34,698.00	1%
Total Operating Revenues	\$3,258,719.00	82%
Support Income		
Contributions	\$ 361,164.00	9%
Contributions – Capital Campaign	\$ 119,789.00	3%
AED Other Income	\$ 167,641.00	4%
AED Overhead Income	\$ 51,224.00	1%
Total Support Revenues	\$ 699,818.00	18%
TOTAL REVENUES	\$ 3,958,537.00	
EXPENSES		
Program Services		
Educational material & Literature Programs	\$1,807,071.00	51%
Telephone & Written Assistance Programs	\$ 246,583.00	7%
Conferences, Workshops & Seminars	\$ 577,600.00	16%
Basics Program ²	\$ 1,500.00	<1%
AED Program ³	\$ 166,859.00	5%
Total Program Services	\$2,799,613.00	79%
Management & General	\$ 636,456.00	18%
Fundraising	\$ 126,077.00	4%
TOTAL EXPENSES	\$3,562,146.00	

1. All percentages shown herein are approximations derived by dividing the amounts shown in the relevant category by the corresponding total. Thus, \$1,647,606.00/\$3,958,537.00=.4162 (rounded four places past the decimal) or 62%.

2. This program studies the growth an sustainability of mothers in low income and Peri-Urban areas of Guatemala City. Applicant Ex. No. 21.

3. This is a project that promotes optimal breastfeeding and other related services in developing countries. *Id.*

RECONCILIATION		
Total Revenues	\$3,958,537.00	
Total Expenses	- <u>\$3,562,146.00</u>	
SURPLUS REVENUES	\$ 396,391.00	

Applicant Ex. No. 21; Tr. pp. 198-199.

14. Applicant's federal return (IRS form 990) for the period in question discloses the following information about LLLI's financial structure:

SOURCE	AMOUNT	% OF TOTAL
Contributions, Gifts, Etc.		
Direct Public Support	\$ 614,091.00	16%
Government Contributions	\$ 218,865.00	6%
Total Contributions	\$ 832,956.00	21%
Program Service Revenues		
Royalty Income	\$ 140,313.00	4%
Sales of Informational Materials	\$1,647,606.00	42%
Seminars & Workshops	\$ 107,309.00	3%
Conference Income	\$ 647,277.00	16%
Total Program Revenues	\$2,542,505.00	64%
Membership Dues & Assessments	\$ 390,219.00	10%
Interest on Savings & Temporary Cash	\$ 14,151.00	<1%
Dividends & Interest from Securities	\$ 99.00	<1%
Other Revenues	\$ 174,908.00	4%
TOTAL REVENUES	\$3,954,838.00	
EXPENSES		
Program Services	\$ 2,799,613.00	79%
Management & General	\$ 636,456.00	18%
Fundraising	\$ 126,077.00	4%
TOTAL EXPENSES	\$3,562,146.00	
RECONCILIATION:		
Total Revenues	\$3,954,838.00	
Total Expenses	- <u>\$3,562,146.00</u>	
SURPLUS REVENUES	\$ 392,692.00	

Applicant Ex. No. 22.

15. Applicant applies all of its surplus revenues to its operating expenses for the next fiscal year. Tr. p. 10.

16. The above financial statements do not account for the value of, or the expenses associated with, the numerous donated medical and other services that applicant receives from the nearly 9,000 volunteers who work on behalf of its organization. Applicant Ex. Nos. 21, 52; Tr. pp. 89-90, 98-102, 110-111, 141-142, 200-214, 219.

C. Public Benefits of Breastfeeding

17. Medical research has demonstrated that breastfeeding: (1) decreases the incidence and/or severity of diarrhea; (2) lowers respiratory infections, urinary tract infections and other maladies that affect infants; (3) possibly has a protective effect against sudden infant death syndrome, insulin-dependent diabetes mellitus, Crohn's disease, ulcerative colitis, lymphoma, allergic diseases and other chronic digestive diseases; (4) possibly enhances cognitive development; (5) increases levels of oxytocin in nursing mothers, which results in less postpartum bleeding and more rapid uterine involution; (6) decreases menstrual blood loss over the months after delivery; (7) may cause an earlier return to prepregnant weight; and, (8) results in improved bone remineralization postpartum, with reduction in hip fractures in the postmenopausal period and reduced risk of ovarian cancer and premenopausal breast cancer. Applicant Ex. Nos. 24, 25; Tr. pp. 46-49.

18. Other medical and scientific research has suggested or demonstrated that: (1) economic benefits of breast-feeding include savings in Medicaid expenditures and savings in costs associated with infants enrolled in the Special Supplemental Nutrition Program for Women, Infants and Children; and (2)

the average cost of medical services for breastfed infants during the first year of life was \$200.00 less than that for bottle-fed infants. Applicant Ex. Nos. 27, 28; Tr. pp. 57-65.

D. Applicant's Operations

19. Applicant's activities center around distributing and disseminating information pertaining to the benefits of breastfeeding. LLLI employs a wide variety of distribution mechanisms, such as an 800 number and a website, to accomplish these goals. Its primary allocation resources are, however, the nearly 8,000 volunteer group leaders who facilitate approximately 3,000 monthly support group meetings throughout the world. Applicant Ex. Nos. 8, 9, 10, 11, 38; Tr. pp. 15-18, 24, 78-80, 82, 89, 119.

20. These meetings, which are free of charge and open to women who would like to obtain information about breastfeeding, provide support to nearly 200,000 persons in 71 countries every month. Applicant Ex. Nos. 11, 19, 20, 39; Tr. pp. 21, 77-78, 86-89; 124, 127, 130-132, 229-230.

21. LLLI group leaders provide support and guidance to individuals outside the group setting but do not charge for any of the services that they provide. They also engage in numerous outreach activities, such as health fairs and providing new mothers with free information, to promote breastfeeding. Tr. pp. 118-124, 127.

22. LLLI leaders pay into a special fund that provides money for groups that need financial assistance in order to purchase supplies for or provide resources to groups in need. They also donate books and other resources to libraries, hospitals and clinics in their areas. Tr. p. 133-134, 176 .
23. Applicant's other distribution mechanisms include producing and distributing numerous pamphlets, magazines and other publications that contain information about breastfeeding. Applicant Ex. Nos. 12 through 19.
24. LLLI makes all of these publications available through its 800 line, as well as at group meetings, libraries and clinics and provides them free of charge to those who are unable to pay. *Id*; Tr. pp. 21-27.
25. Applicant also maintains a Center for Breastfeeding Information, which is located at the subject property and contains nearly 12,000 full-length research studies. Applicant makes all of the Center's resources available to the general public at little or no cost. Applicant Ex. No. 11; Tr. p.
26. LLLI operates its 800 line from the subject property. It receives over 2,000 calls per month from all parts of world and makes free referrals to local groups and provides other resources, such as pamphlets, without cost to the caller. Applicant Ex. Nos. 11, 45, 46; Tr. pp. 143-153, 224.
27. Applicant's website enables visitors to access more than 900 pages of free information about LLLI and the services it provides to nursing mothers. It also sponsors over 300 group or area websites that operate in 22 countries. Applicant Ex. Nos. 10, 11; Tr. pp. 160-162; 223.

CONCLUSIONS OF LAW:

An examination of the record establishes that this applicant has demonstrated by the presentation of testimony or through exhibits or argument, evidence sufficient to warrant exempting the subject property from 1998 real estate taxes. Accordingly, under the reasoning given below, the determination by the Department that the subject property does not qualify for exemption under 35 ILCS 200/15-65(a) should be reversed. In support thereof, I make the following conclusions:

Article IX, Section 6 of the Illinois Constitution of 1970 provides as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to Constitutional authority, the General Assembly enacted Section 15-65(a) of the Property Tax Code, wherein all property owned by “institutions of public charity” is exempted from real estate taxation, provided that such property is “actually and exclusively used for charitable purposes and not leased or otherwise used with a view to profit.” 35 ILCS 200/15-65(a). The statutory requirements for this exemption are, in this context, that: (1) the property be owned by an entity that qualifies as an “institution of public charity;” and, (2) the property be actually and exclusively used for charitable purposes.” *Id*; Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968).

This record establishes that applicant uses the subject property for no purpose other than conducting activities that allow it to fulfill its organization purposes, which are to disseminate information about the health, economic, and other benefits of breastfeeding. The record further establishes, via the warranty deed admitted as

Applicant Ex. No. 57, that applicant owned the subject property throughout the tax year in question. Accordingly, the true source of controversy in this case is whether applicant qualifies as an "institution of public charity."

By definition, charitable institutions operate to benefit an indefinite number of people in a manner that persuades them to an educational or religious conviction that benefits their general welfare or otherwise reduce the burdens of government. Crerar v. Williams, 145 Ill. 625 (1893). They also: (1) have no capital stock or shareholders; (2) earn no profits or dividends, but rather, derive their funds mainly from public and private charity and holds such funds in trust for the objects and purposes expressed in its charter; (3) dispense charity to all who need and apply for it; (4) do not provide gain or profit in a private sense to any person connected with it; and, (5) do not appear to place obstacles of any character in the way of those who need and would avail themselves of the charitable benefits it dispenses. Methodist Old People's Home v. Korzen, 39 Ill.2d 149, 156, 157 (1968).

These factors are not to be applied mechanically or technically. DuPage County Board of Review v. Joint Comm'n on Accreditation of Healthcare Organizations, 274 Ill. App. 3d 461, 466 (2nd Dist. 1995). Rather, they are to be balanced with an overall focus on whether, and to what extent, applicant: (1) primarily serves non-exempt interests, such as those of its own dues-paying members (*see*, Rogers Park Post No. 108 v. Brenza, 8 Ill.2d 286 (1956); Morton Temple Association v. Department of Revenue, 158 Ill. App. 3d 794, 796 (3rd Dist. 1987)) or, (2) operates primarily in the public interest and lessens the State's burden. (*see*, DuPage County Board of Review v. Joint Comm'n on

Accreditation of Healthcare Organizations), *supra*; Randolph Street Gallery v. Department of Revenue, 1-00-0237 (August 9, 2000).

The testimony of applicant's medical expert, Dr. Lawrence M. Gartner, together with the research papers submitted during the course of his testimony, provide ample evidence of the medical, economic, social and other benefits associated with breastfeeding. (*See*, Applicant Ex. Nos. 24, 25, 27, 28; Tr. pp. 46-49, 57-65). Hence, there is little doubt that applicant's various programs serve the public interest. Therefore, the only question becomes whether such programs satisfy the definitional requirement of benefiting an indefinite number of persons.

Applicant's organizational documents specifically provide, *inter alia*, that its general corporate policy is to waive or reduce any fees or charges associated with the services or products that LLLI provides in accordance with each recipient's ability to pay. (Applicant Ex. No. 4; Tr. p. 85-86, 130). They further state that applicant's organizational staff shall have the necessary discretion to make such waivers or reductions when appropriate so as to ensure the maximum distribution of its products and services. (*Id.*)

The presence of such statements is certainly consistent with dispensation of charity. Small v. Pangle, 60 Ill.2d 510, 518 (1975). However, applicant must supplement these statements with evidence that its actual operations conform to the model set forth in its organizational documents. Scripture Press Foundation v. Annunzio, 414 Ill. 339 (1953).

The fact that applicant accomplishes most of its distributional work through unpaid, volunteer group leaders, who in turn provide support and guidance at meetings

that are open to the public at no charge, strongly supports the conclusion that applicant does indeed provide access to its information and services on an equal basis without regard for an individual's ability to pay.

Applicant supplements the efforts of its group leaders by operating an 800 line and a website. These mechanisms enable applicant to provide free services and information to a broader public, specifically those who may need information but do not have access to a group leader. In light of these extensive outreach efforts, I must conclude that applicant qualifies as an "institution of public charity" within the meaning of Section 15-65(a). *Accord, Randolph Street Gallery, supra.*

The testimony of applicant's accounting expert, Barry T. Omahan, CPA, provides additional support for this conclusion. Mr. Omahan specifically testified that the information contained in applicant's financial statements do not account for the value of, or the expenses associated with, the numerous donated medical and other services that applicant receives from the nearly 9,000 volunteers who work on behalf of its organization. (Tr. pp. 200-214, 219). In light of this testimony, and the entire preceding analysis, I recommend that the Department's initial determination in this matter be reversed.

WHEREFORE, for all the above-stated reasons, it is my recommendation that real estate identified by Cook County Parcel Index Number 07-12-300-033 be exempt from 1998 real estate taxes.

March 5, 2001

Date

Alan I. Marcus
Administrative Law Judge